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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/039,202 03/13/98 WESTON

D GIL4-BC72

EXAMINER

WM01/1012

PRICE GESS & UBELL  
2100 S E MAIN STREET SUITE 250  
IRVINE CA 92614

SALCE, J

ART UNIT

PAPER NUMBER

2611

DATE MAILED:

10/12/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/039,202

Applicant(s)

WESTON ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 1998 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Drawings***

The drawings are objected to because Figure 2 fails to show the label "Central Controller 1". Correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Rostoker et al. (U.S. Patent No. 6,111,863).

Referring to claims 1-2, Lappington discloses an interactive television system 10 that contains a data insertion system that consists of a method for transmitting data relating to a number of different categories, and shows transmission from a central location to at least one remote receiver (Column 3, Lines 12-14 and Column 5, Lines 52-53 and Figure 1), a method of allocating a priority to the data in accordance with the category, with each priority defining a relationship between categories of data, and transmitting the data in a manner determined by the allocated priorities (Column 6, Lines 17-22). Lappington fails to teach a method of monitoring the data for satisfactory transmission and changing the priority of data to provide satisfactory transmission. Rostoker teaches a method for monitoring and changing priority assignments before sending video, audio and data signals to a transmitter (Column 5, Lines 46-52 and Column 6, Lines 41-58). At the time the invention was made, it would have been

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obvious to a person of ordinary skill in the art to utilize the prioritization algorithm, as taught by Rostoker, in the interactive system, as taught by Lappington, for the purpose of taking advantage of the ability to transmit information more accurately and at higher rates, significant savings have been realized in both switching capacity and ongoing line costs (Column 1, Lines 47-50 of Rostoker).

Claim 4 corresponds to claim 1, with the additional limitation of determining if data will be transmitted within a predetermined time period. Lappington discloses that information can be pre-produced with time data, where data insertion control 14 would insert the interactive data onto the VBI at the appropriate time (Column 8, Lines 30-33).

Claim 6 corresponds to claim 1, with the additional limitation of a category corresponding to game playing data. Lappington discloses mini-games that allow the viewer to play self-contained games (Column 10, Lines 63-67).

Claim 7 corresponds to claim 1, with the additional limitation of transmitting data within a television signal. Lappington discloses the data insertion control 14, which controls the insertion of interactive data preferably into the vertical blanking interval of the incoming television signal (Column 8, Lines 17-20).

Referring to claim 8, see rejection of claim 1.

Claim 9 corresponds to claim 8, with the additional limitation of at least one category being an interactive service. Lappington discloses a transaction based interactive television system that can create, encode, transmit and present sophisticated interactive programs (Column 3, Lines 11-14).

Referring to claim 10, see rejection of claim 1.

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Claim 11 corresponds to claim 10, with the additional limitation of combining data with a TV signal for transmission to at least one remote receiver. Lappington discloses an insertion card 20 that adds the interactive data to the VBI lines of the television signal 16 (Column 8, Lines 40-41), and set-top device 28 that receives the encoded TV signal and strips out the interactive data (Column 8, Lines 65-66).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington et al. in view of Gasztonyi et al (U.S. Patent No. 5,686,961).

Lappington teaches all the limitations in claim 1. Lappington fails to teach compressing the data in a category if a certain priority has been allocated. Gasztonyi teaches a video transmission system that is made aware of the progress of the transmission of video image data and of compression and priority level (Column 2, Lines 59-63). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize the video transmission system, as taught by Gasztonyi, in the interactive television system, as taught by Lappington, for the purpose of reducing storage and transmission requirements (Column 1, Lines 54-55 of Gasztonyi).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Keshav (U.S. Patent No. 5,627,970).

Lappington teaches all the limitations in claim 1, as well as interactive data that could be transmitted using digital packets (Column 8, Lines 47-51), where the data can be script data, cross-promotional data, or mail and bulletin board data (Column 6, Lines 19-22). Lappington fails to teach a method for monitoring a packet to be sent, and

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manipulating a packet with high and low priority data. Keshav teaches a transmission queue that is partitioned into a high priority zone at one end and a low priority zone at the other (Column 8, Lines 35-39). Application data packets are stored at the tail of the low priority zone, while data packets awaiting retransmission are stored at the tail of the high priority zone (Column 8, Lines 39-42). The destination node is required to buffer received out of sequence data packets until the data packets can be processed or transferred to a third-party recipient in order (Column 8, Lines 42-46). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize the transmission queue, as taught by Keshav, in the interactive television system, as taught by Lappington, for the reduction of buffer space needed by the destination node (Column 8, Lines 46-48).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ong U.S. Patent No. 5,815,662 discloses a predictive memory caching for media-on-demand systems.

Eda et al. U.S. Patent No. 5,760,820 discloses a digital signal transmission system with priority information forcing display of text on a receiver.

Scholefield et al. U.S. Patent No. 5,752,193 discloses method and apparatus for communicating in a wireless communication system.

Vook et al. U.S. Patent No. 5,513,210 discloses a method for controlling channel access priorities in a frequency hopping local area network.

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Raychaudhuri et al. U.S. Patent No. 5,122,875 discloses an HDTV compression system.

Lyons U.S. Patent No. 5,864,557 discloses a method and apparatus for opportunistically transferring data in a packet stream encoder.


Adams et al. U.S. Patent No. 6,124,878 discloses optimum bandwidth utilization in a shared cable system data channel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-5741 for regular communications and (703) 746-5741 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.

October 9, 2001

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600